



Decision

Matter of: MMC/PHT Company--Reconsideration

File: B-230599.3

Date: September 9, 1988

DIGEST

Request for reconsideration of prior decision is denied where the request contains no statement of the facts or legal grounds warranting reversal or modification, but merely restates arguments made by the protester and considered previously by the General Accounting Office.

DECISION

MMC/PHT Company seeks a second reconsideration of our decision, MMC/PHT Co., B-230599, May 17, 1988, 88-1 CPD ¶ 464, denying its protest of the Department of the Air Force's award of a noncompetitive contract, No. F42600-88-C-1304, to Texstar Incorporated, to supply electronic drawer containers. We deny the request for reconsideration.

PHT had protested that the Air Force failed to give its proposal fair consideration and lacked an adequate basis for the award to Texstar. We denied the protest, concluding that the agency properly proceeded on an urgent and compelling basis to award a noncompetitive contract to the only known firm capable of providing the containers within the required timeframe. The Air Force had determined that the 90 containers awarded to Texstar were urgently needed to prevent work stoppages that would result in extensive and costly missile retargeting. PHT did not appear to dispute the urgent need for the containers.

The Air Force also determined that PHT would have to submit a first article for testing, but that there was insufficient time for such testing. The record failed to establish that the Air Force reasonably could have qualified PHT in time for award, given that delivery of the containers was due much sooner than the normal manufacturing lead time, and that extensive qualification testing was required. We found the Air Force reasonably concluded that the information PHT submitted to demonstrate the acceptability of its containers was insufficient, as the drawings did not reflect vibration and shock test requirements and PHT had

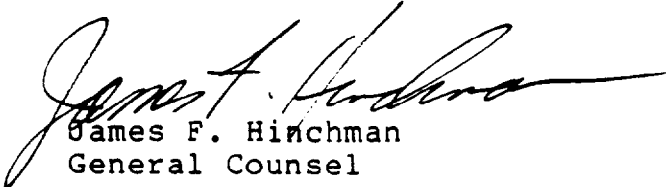
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never manufactured the specific container which would be used to transport expensive, nuclear critical, electronic drawers. Although we did not object to the award to Texstar, we noted that we anticipated that the Air Force would expeditiously develop the technical data and testing requirements for the containers so that future procurements could be conducted with more qualified sources. The Air Force has since issued a competitive solicitation which requires first article testing and has the shock and vibration test requirements and parameters.

In its first request for reconsideration, PHT argued that the Air Force should not require that its containers be tested because the request for proposals (RFP) did not reference any test requirements. We found that even though the RFP did not reference test requirements, the agency could reasonably require testing to alleviate concerns about latent weaknesses resulting from the protester's manufacturing process before approval of the protester as a source for containers to transport nuclear critical electronic drawers in light of the RFP requirement that the protester furnish evidence that its containers would meet requirements.

Under our Bid Protest Regulations, 4 C.F.R. § 21.12(a) (1988), a request for reconsideration must contain a detailed statement of the factual and legal grounds upon which reversal or modification is warranted and must specify any errors of law made in the decision or information not previously considered. Information not previously considered refers to information which was overlooked by our Office or information to which the protester did not have access when the initial protest was pending. Target Financial Corp.--Reconsideration, B-226683.2, July 29, 1987, 87-2 CPD ¶ 108.

PHT presents no new facts or arguments to indicate error in our previous decision. The request merely restates arguments made by PHT and previously considered by our Office. Thus, while the request for reconsideration clearly reflects PHT's disagreement with our decision, it does not meet the requirement for a detailed statement of the factual and legal grounds warranting reversal or modification, nor provide us with any other basis to reconsider the protest.


James F. Hinchman
General Counsel